

REMARKS

The Applicant respectfully requests further examination and consideration in view of the above amendments and the arguments set forth fully below. Prior to this Office Action, Claims 1-9 were pending in this application. Claims 1-9 were rejected. The Applicant has amended Claims 1, and 4-9. Accordingly, Claims 1-9 are currently pending in this application.

Rejection Under 35 U.S.C. § 112

Within the Office Action, Claims 1-6 were rejected under § 112 as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Specifically, it stated that the limitation “the slot having a dimension larger than a diameter of a string” in amended claim 1, and “the slot is in communication with the aperture and has a dimension larger than a diameter of the string” in amended claim 4 are considered new because the limitations are not described in the specification.

By the above amendments, the quoted limitations are no longer stated in Claims 1 and 4. Accordingly, applicant respectfully contends that Claims 1 and 4 are now in condition for allowance. Claims 2, 3, 5, and 6 are dependent on Claims 1 and 4. Accordingly, Claims 2, 3, 5, and 6 are also now in condition for allowance.

Rejections Under 35 U.S.C. § 103

Within the Office Action, Claims 7 and 8 are rejected under § 103(a) as being unpatentable over Walker in view of U.S. Patent 3,595,118 to Paxton (hereinafter Paxton). The Applicant respectfully traverses.

Paxton teaches a pick having an aperture for resisting rotation of the pick between the thumb and forefinger and a slot to provide access to the aperture in order to attach the pick to the strings of a guitar. The opposite sides of the slot are very close together in order to provide the least amount of space between the sides as possible without the sides touching. The dimension of the slot must be smaller than the diameter of a string, such that the pick does not fall off the strings when clipped.

In contrast to Paxton, the present invention has an aperture that is large enough to receive a closed bag. In addition, for the pick of the present invention to receive the bag, the bag must readily pass through the slot. As such, it appears the slot has a dimension larger than that of a

string, so that the bag can be received within the aperture. Paxton does not teach that the aperture has a dimension large enough to receive a closed bag. Further, Paxton does not teach that the slot is large enough to releasably accept a bag, because the slot is smaller than the diameter of a string.

Currently amended Claim 7 is directed to a complementary guitar pick having a body and an operational end. The pick has an aperture located substantially near a center of the body and a slot configured to extend from the aperture to an edge of the body. Both the aperture and the slot pass through the body of the pick. The aperture is sized to receive a closed bag. The bag is for holding music related promotion items. The slot having a dimension sufficient to pass and also releasably secure the closed bag. (See p. 4, lines 12-18) Since Paxton only teaches a pick with an aperture wide enough to receive two strings with a slot smaller than the diameter of a string, currently amended Claim 7 is distinguishable over Paxton and accordingly in a condition for allowance.

Further, Claim 8 is dependent on an allowable independent Claim 7. As stated above, Claim 7 is in condition for allowance. Accordingly, Claim 8 is also now in condition for allowance.

Within the Office Action, Claim 9 is rejected under § 103(a) as being unpatentable over Walker in view of U.S. Patent 1,254,577 to Carpenter (hereinafter Carpenter). The Applicant respectfully traverses. Claim 9 is dependent on an allowable independent Claim 7. As stated above, Claim 7 is in a condition for allowance. Accordingly, Claim 9 is also in condition for allowance in view of Walker and Carpenter, individually or in combination.

For the reasons given above, Applicant respectfully submit that the Claims 1-9 are in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: 5-19-04

By: 

THOMAS B. HAVERSTOCK
Reg. No.: 32,571
Attorney for Applicant